

COMMODITY FUTURES TRADING COMMISSION

**Order Designating the Unique Product Identifier and Product Classification System
To Be Used in Recordkeeping and Swap Data Reporting**

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (“Commission”) has issued an Order to designate a unique product identifier and product classification system to be used in swap recordkeeping and data reporting. The Commission has determined that the unique product identifiers issued by the Derivatives Service Bureau Limited for swaps in the credit, equity, foreign exchange, and interest rate asset classes comply with the Commission’s requirements for a unique product identifier and product classification system, and have designated them as such. The Order requires registered entities and swap counterparties to use unique product identifiers issued by the Derivatives Service Bureau Limited for swaps in the credit, equity, foreign exchange, and interest rate asset classes to comply with certain of the Commission’s swap recordkeeping and reporting requirements.

DATES: The Order of Designation is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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SUPPLEMENTARY INFORMATION:

I. Background

A. Unique Product Identifiers: CEA Section 21(b) and Section 45.7 of the Commission's Regulations

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”)¹ amended the Commodity Exchange Act (“CEA”)² to establish a comprehensive regulatory framework for swaps. Amendments to the CEA included the addition of provisions requiring the retention, and the reporting to swap data repositories (“SDRs”), of data regarding swap transactions in order to enhance transparency, promote standardization, and reduce systemic risk.³ Pursuant to these CEA amendments, the Commission added to its regulations part 45,⁴ which sets forth recordkeeping rules, and rules for the reporting of swap transaction data to SDRs.

Under the authority granted by section 21(b) of the CEA, which, among other things, directs the Commission to “prescribe standards that specify the data elements for each swap that shall be collected and maintained” by an SDR,⁵ the Commission, in its part 45 regulations, prescribed the use of a unique product identifier and product classification system in recordkeeping and swap data reporting.⁶ Regulation § 45.7

¹ Pub. L.111-203, 124 Stat. 1376 (2010).

² 7 U.S.C. 1-26.

³ See, e.g., 7 U.S.C. 2(a)(13)(G), which requires all swaps, whether cleared or uncleared, to be reported to an SDR; 7 U.S.C. 24a(b), which directs the Commission to prescribe standards for swap data reporting and attendant recordkeeping.

⁴ Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136 (January 13, 2012).

⁵ 7 U.S.C 24a(b)(1).

⁶ 17 CFR 45.7.

provides that each swap shall be identified in all recordkeeping and all swap data reporting pursuant to part 45 by means of a unique product identifier and product classification system as specified in this section.⁷

Regulation § 45.7 sets forth requirements for the elements and Commission designation of a unique product identifier and product classification system.⁸ The unique product identifier and product classification system must identify and describe the swap asset class and the sub-type within that asset class to which the swap belongs, and the underlying product for the swap, with sufficient distinctiveness and specificity to: (i) enable the Commission and other regulators to fulfill their regulatory responsibilities, and (ii) assist in real-time public reporting of swap transaction and pricing data pursuant to part 43.⁹ The level of distinctiveness and specificity which the unique product identifier will provide is required to be determined separately for each asset class.¹⁰ Further, upon its required determination that an acceptable unique product identifier and product classification system that contains the § 45.7 required elements is available, the Commission must designate this identifier and system for use in recordkeeping and swap data reporting.¹¹

⁷ *Id.* Regulation § 45.7 provides that each swap sufficiently standardized to receive a unique product identifier shall be identified by a unique product identifier while each swap that is not sufficiently standardized shall be identified by its description using the product classification system.

⁸ 17 CFR 45.7(a).

⁹ *Id.* Real-time public reporting of swap transaction and pricing data pursuant to part 43 seeks to enhance transparency and price discovery of the swaps market. Publishing a unique product identifier as part of the swap transaction and pricing data for a transaction would provide information needed to describe the publicly reportable swap transaction and enable market participants and the public to compare such publicly reportable swap transaction to other similar publicly reportable swap transactions.

¹⁰ *Id.*

¹¹ 17 CFR 45.7(b).

When it adopted § 45.7 in 2012, the Commission acknowledged the absence of a unique product identifier or product classification system that adequately classified and described swaps products.¹² The Commission noted that the Bank for International Settlements Committee on Payment and Settlement Systems (“CPSS”) and the Board of the International Organization of Securities Commissions (“IOSCO”) had recommended that the “Financial Stability Board direct further international consultation and coordination by financial and data experts from both regulators and industry” concerning the creation of a swaps product classification system.¹³

B. CPMI and IOSCO Technical Guidance on the Harmonization of the Unique Product Identifier

Following a meticulous, conscientious process of international coordination, the Bank for International Settlements Committee on Payments and Market Infrastructures (“CPMI”) and IOSCO published Technical Guidance on the Harmonization of the Unique Product Identifier (“UPI Technical Guidance”) during September 2017.¹⁴ CPMI and IOSCO, in the UPI Technical Guidance, specify the requirements necessary for a product identifier to facilitate the reporting of swap data to trade repositories and the aggregation of such data by authorities.¹⁵ CPMI and IOSCO concluded that semantically meaningless codes should be assigned to each unique product, with the product attributes associated with each code discoverable by reference to standardized tables (“Reference

¹² See 77 FR at 2165-66.

¹³ *Id.* The Financial Stability Board (FSB) is an international body that monitors and makes recommendations about the global financial system. Members of the FSB include the Board of Governors of the Federal Reserve System, Department of the Treasury, and the Securities and Exchange Commission. The Commission, though not an FSB member, is a member of IOSCO.

¹⁴ CPMI and IOSCO, Technical Guidance: Harmonisation of the Unique Product Identifier, (Sept. 2017), available at: <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD580.pdf>.

¹⁵ *Id.*

Data Library”).¹⁶ CPMI and IOSCO, in the UPI Technical Guidance, require that the Reference Data Library contain specific reference data elements that vary by asset class. These required reference data elements detail the asset class, asset class sub-types, underlying asset, and other swap product attributes.¹⁷ CPMI and IOSCO also concluded that a unique product identifier should satisfy fifteen distinct technical principles,¹⁸ and appointed the FSB to designate one or more service providers to issue product codes and operate and maintain the Reference Data Library, upon determining such provider would meet the principles in doing so.¹⁹

The Commission played an integral role in the creation of the UPI Technical Guidance. In addition to approving the issuance of the guidance as an IOSCO Member, the Commission co-chaired the joint CPMI and IOSCO workgroup that drafted the guidance. In this key position, the Commission was able to ensure that the UPI Technical Guidance defined a unique product identifier at a level of specificity and distinctiveness that met the needs of the Commission.

C. FSB Designation of the Derivatives Service Bureau Limited

The FSB proposed that an entity or entities (“UPI Service Provider”) provide for the timely issuance of unique product identifier codes and maintenance of the Reference Data Library.²⁰ The FSB published a call for self-assessments from prospective UPI

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* The fifteen technical principles identified by CPMI and IOSCO are: jurisdiction neutrality, uniqueness, consistency, persistence, adaptability, clarity, ease of assignment/retrieval/query, long-term viability, scope neutrality, compatibility, comprehensiveness, extensibility, precision, public dissemination, and representation.

¹⁹ *Id.*

²⁰ See, e.g., FSB, Governance arrangements for the unique product identifier: key criteria and functions, (Oct. 2017), available at: <https://www.fsb.org/wp-content/uploads/P031017.pdf>.

Service Providers during July 2018.²¹ The FSB requested that each prospective UPI Service Provider submit business and self-governance plans that explained how the respondent could satisfy the UPI Technical Guidance and certain other governance criteria.²² After reviewing the self-assessments in coordination with CPMI and IOSCO, the FSB designated the Derivatives Service Bureau Limited (“DSB”) as the UPI Service Provider.²³

The FSB published its final conclusions and implementation plan regarding governance arrangements for the unique product identifier system during October 2019 (“UPI Governance Report”).²⁴ The FSB, in the UPI Governance Report, enumerated the components of unique product identifier governance arrangements and allocated governance functions among the components. The components identified by the FSB include a UPI Service Provider(s) that would issue unique product identifier codes and maintain the Reference Data Library, and an International Governance Body that would provide overall oversight of the UPI Service Provider and the broader unique product identifier system.²⁵ The FSB also recommended that FSB jurisdictions undertake any

²¹ FSB, Self-assessment questionnaire for prospective UPI Service Providers, (July 2018), *available at*: <https://www.fsb.org/wp-content/uploads/P160718-2.pdf>.

²² *Id.*

²³ FSB, Press Release: FSB designates DSB as Unique Product Identifier Service Provider (May 2, 2019), *available at*: <https://www.fsb.org/2019/05/fsb-designates-dsb-as-unique-product-identifier-upi-service-provider/>.

²⁴ FSB, Governance arrangements for the UPI: Conclusions, implementation plan, and next steps to establish the International Governance Body, (Oct. 2019), *available at*: <https://www.fsb.org/wp-content/uploads/P091019.pdf>.

²⁵ *Id.* The FSB identified the Legal Entity Identifier Regulatory Oversight Committee (“ROC”) as the entity best situated to be the International Governance Body. The ROC is a group of more than 65 financial markets regulators and other public authorities and 19 observers from more than 50 countries that promotes the broad public interest by improving the quality of data used in financial data reporting, improving the ability to monitor financial risk, and lowering regulatory reporting costs through the harmonization of these standards across jurisdictions. The Commission is a ROC member. Since assuming responsibilities as the International Governance Body, the ROC has provided oversight of DSB.

actions relevant to their situation to require the reporting of unique product identifier codes to trade repositories in a manner consistent with the UPI Technical Guidance and the UPI Governance Report.²⁶

The Commission played a central role in the FSB's review of self-assessments from prospective UPI Service Providers and in the creation of the UPI Governance Report. The Commission co-chaired the FSB workgroup that both reviewed self-assessments from prospective UPI Service Providers and drafted the UPI Governance Report. In this key role, the Commission was able to assist the FSB in ensuring that any UPI Service Provider designated by the FSB had demonstrated an intent and ability to comply with the UPI Technical Guidance.

The Commission is a member of the ROC and participates in oversight of the unique product identifier system and DSB consistent with the UPI Governance Report. The Commission also co-chairs the ROC committee that focuses on oversight of DSB. In these roles at the ROC, the Commission is able to assist the ROC in meeting its FSB-mandated responsibility to oversee DSB and its adherence to the UPI Technical Guidance.

II. Commission Determination of an Acceptable Unique Product Identifier and Product Classification System

For reasons explained below, the Commission has determined that the unique product identifier codes issued by DSB for swaps in the credit, equity, foreign exchange, and interest rate asset classes ("Covered Asset Classes") are acceptable to the Commission and satisfy the requirements set forth in part 45.7 of the Commission's

²⁶ *Id.*

regulations in that they identify and describe swap products with sufficient distinctiveness and specificity to: (i) enable the Commission and other regulators to fulfill their regulatory responsibilities, and (ii) assist in real-time public reporting of swap transaction and pricing data.

A. The UPIs issued by DSB for swaps in the Covered Asset Classes identify and describe swap products with sufficient distinctiveness and specificity to enable the Commission and other regulators to fulfill their regulatory responsibilities.

DSB issues unique product identifier codes for swaps in the Covered Asset Classes in a manner consistent with the UPI Technical Guidance. In accordance with the UPI Technical Guidance, each unique product identifier code issued by DSB for swaps in the Covered Asset Classes maps to a Reference Data Library containing specific reference data elements that vary by asset class. These required reference data elements detail the asset class, asset class sub-types, underlying asset, and other swap product attributes.²⁷

Identification of swaps using unique product identifier codes issued by DSB in the Covered Asset Classes would enable the Commission and other regulators to aggregate swap transaction data at various levels of product classification, providing enhanced transparency of market activity and facilitating oversight of the swaps markets. For example, the reporting of unique product identifier codes issued by DSB to all four SDRs provisionally registered with the Commission would enable the Commission to not only aggregate transactions by unique product identifier code across all SDRs, but to

²⁷ The Commission and other financial regulators coordinated under the auspices of CPMI and IOSCO to define the UPI Technical requirements as including a requirement that the UPI have sufficient detail and level of granularity to enable authorities to fulfil their regulatory responsibilities. CPMI and IOSCO, *Technical Guidance: Harmonisation of the Unique Product Identifier* at p.11.

aggregate by any reference data element contained in the Reference Data Library. This would allow the Commission to aggregate not just all interest rate swap transactions with the same unique product identifier, but also to aggregate all interest rate swap transactions referencing the same underlying interest rate index.

Combined with other standardized identifiers already used in swaps recordkeeping and reporting, such as legal entity identifiers, unique product identifier codes issued by DSB will provide a crucial regulatory tool to facilitate the Commission's ability to link and aggregate data to detect and mitigate systemic risk and prevent market manipulation, among other important purposes of the Dodd-Frank Act.²⁸

B. The UPIs issued by DSB for swaps in the Covered Asset Classes identify and describe swap products with sufficient distinctiveness and specificity to assist in the real time reporting of swaps as provided in the CEA and the Commission's regulations.

Unique product identifier codes issued by DSB for swaps in the Covered Asset Classes would assist the real time reporting of swaps required by the CEA and part 43 of the Commission's regulations in several important ways. Most importantly, inclusion of unique product identifier codes issued by DSB in real-time public swaps reports will assist public transparency because those codes identify products with sufficient precision to allow for price discovery.²⁹ The inclusion of unique product identifier codes issued by DSB in real-time public swaps reports will also assist in increasing the standardization of real time public reporting across SDRs and facilitating a more efficient reporting of swap

²⁸ For example, the aggregation of open credit swap transactions by underlier and counterparty would provide the Commission transparency into market participants' exposures to credit events associated with particular underliers.

²⁹ The Commission and other regulators coordinated under the auspices of the CPMI and IOSCO to define the swap asset class, asset class sub-types, and level of required precision that was necessary, determined separately for each asset class, to support the real-time public reporting of swap transaction and pricing data.

products. Instead of the different product identifiers and classification systems currently used across SDRs, the inclusion of unique product identifier codes issued by DSB in all public disseminations for swaps in the Covered Asset Classes will facilitate the price discovery of swap transactions in the same product that are published by different SDRs. This will enable market participants and the public to more easily compare a publicly reportable swap transaction published by one SDR with publicly reportable swap transactions relating to the same product published by a different SDR. Additionally, the inclusion of unique product identifier codes issued by DSB in real-time swap reports will enable the communication of many product characteristics in a single data field. Since unique product identifier codes issued by DSB link to the Reference Data Library maintained by DSB, the reporting of the code in a single data field negates the need for the reporting of the associated data contained in the Reference Data Library. This assists real-time public reporting by reducing the number of data fields required to be transmitted to facilitate price discovery.

III. Order of Designation of the unique product identifier and product classification system to be used in recordkeeping and swap data reporting pursuant to the

Commission's regulations for swaps in the credit, equity, foreign exchange, and interest rate asset classes.

Based upon the foregoing, including the following facts:

1) The Commission played an integral role in the creation of the UPI Technical Guidance to ensure that the guidance defined a unique product identifier at a level of specificity and distinctiveness that met the needs of the Commission.

2) The Commission worked with FSB to ensure that any UPI Service Provider designated by the FSB had demonstrated an intent and ability to comply with the UPI Technical Guidance.

3) The UPI Technical Guidance requires that the Reference Data Library contain specific reference data elements that vary by asset class, detailing the asset class, asset class sub-types, underlying asset, and other swap product attributes.

4) In accordance with the UPI Technical Guidance, each unique product identifier code issued by DSB for swaps in the Covered Asset Classes maps to a Reference Data Library containing specific reference data elements that vary by asset class. These required reference data elements detail the asset class, asset class sub-types, underlying asset, and other swap product attributes.

Accordingly, the Commission FINDS that, as required by Commission regulation § 45.7, the unique product identifiers issued by DSB for swaps in the credit, equity,

foreign exchange, and interest rate asset classes are acceptable to the Commission and satisfy the requirements set forth in part 45.7 of the Commission's regulations.

Therefore:

IT IS HEREBY ORDERED THAT:

1. Pursuant to section 21(b) of the Act and Commission regulation § 45.7, the product identifiers issued by the Derivatives Service Bureau Limited as unique product identifiers (DSB UPIs) for swaps in the credit, equity, foreign exchange, and interest rate asset classes are designated as the unique product identifier and product classification system to be used in recordkeeping and swap data reporting pursuant to the Commission's regulations; this Order gives notice of this designation.
2. Registered entities and swap counterparties shall use DSB UPIs for swaps in the credit, equity, foreign exchange, and interest rate asset classes in all recordkeeping and swap data reporting pursuant to Part 45, and shall similarly use DSB UPIs for swaps in the credit, equity, foreign exchange, and interest rate asset classes to facilitate real-time public reporting as required by Part 43.
3. The Commission expects compliance with paragraph 2., above, by no later than January 29, 2024. For this purpose, registered entities and swap counterparties may contact the Derivatives Service Bureau Limited at: 107 Cheapside, London, EC2V 6DN, England, +44 20 3880 2200, *Secretariat@ANNA-DSB.com*.

Information concerning the procedures for acquiring DSB UPIs may be accessed at <https://www.anna-dsb.com/upi/>.

Authority: 7 U.S.C. 24a(b)

Issued in Washington, DC on February 16, 2023, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

NOTE: The following appendices will not appear in the Code of Federal Regulations.

**Appendices to Order Designating the Unique Product Identifier and Product Classification System To Be Used in Recordkeeping and Swap Data Reporting—
Voting Summary and Chairman’s and Commissioner’s Statement**

Appendix 1—Voting Summary

On this matter, Chairman Behnam and Commissioners Johnson, Goldsmith Romero, Mersinger, and Pham voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Statement of Commissioner Christy Goldsmith Romero in Support of Increasing Transparency in Swap Markets Through The Use of Unique Product Identifiers

Swap data reporting is fundamental to post-crisis financial regulation. Given the important goal of the Dodd-Frank Act to bring transparency to risk in swap markets that was previously hidden, I support the Commission’s designation of unique product identifiers for swap data reporting.

By increasing visibility into swap markets through real-time public reporting and swap data repository reporting, the Commission brought light to what was previously an opaque market with hidden risk. Swap data reporting increases regulatory insight into

swap market activity, which is necessary to promote market integrity. Real-time public reporting also promotes transparency and price discovery by making swap transaction and pricing information publicly available.

As swap markets are global markets, global harmonization enhances the use of swap data for regulators, market participants, and the public. The CFTC has been collaborating with global regulators on uniform standards for defining and representing swap products. I look forward to increased transparency in swap markets through the use of standardized product identifiers.